

1 THE HONORABLE JOHN C. COUGHENOUR  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 GUIRGUIS, a.k.a. GEORGE, EL-SHAWARY,  
11 a Washington resident,

Plaintiff,

v.

12 U.S. BANK NATIONAL ASSOCIATION as  
13 Trustee for GSR MORTGAGE LOAN TRUST  
14 2006-4F MORTGAGE PASS THROUGH  
15 CERTIFICATE SERIES 2006-4F *et al.*,

Defendants.

CASE NO. C18-1456-JCC

ORDER

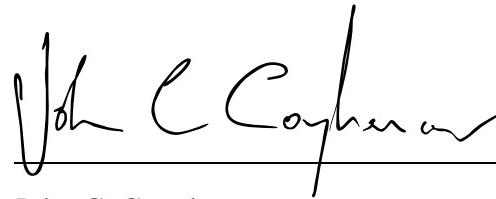
17 This matter comes before the Court on Plaintiff's motion for leave to file a second  
18 amended complaint (Dkt. No. 41). When deciding whether to grant leave to amend under Federal  
19 Rule of Civil Procedure 15(a)(2), courts consider four factors: (1) undue delay, (2) bad faith,  
20 (3) prejudice to the opposing party, and (4) futility. *Griggs v. Pace Am. Group, Inc.*, 170 F.3d  
21 877, 880 (9th Cir. 1999). Those factors are weighed "with all inferences in favor of granting the  
22 motion" because Rule 15 instructs that "court[s] should freely give leave when justice so  
23 requires." See Fed. R. Civ. P. 15(a)(2); *Griggs*, 170 F.3d at 880.

24 Defendants do not argue that these factors weigh against granting leave; indeed,  
25 Defendants have not filed any papers in opposition to Plaintiff's motion. The Court construes  
26 Defendants' decision to not file opposition papers "as an admission that the motion has merit."

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1 See W.D. Wash. Local Civ. R. 7(b)(2). The Court also independently finds that granting leave is  
2 appropriate.<sup>1</sup> The Court therefore GRANTS Plaintiff's motion for leave to file a second amended  
3 complaint (Dkt. No. 41). However, the Court ORDERS Plaintiff to file a revised amended  
4 complaint that conforms with the Court's recent order granting in part Defendants' motion for  
5 judgment on the pleadings. (See Dkt. No. 51 at 10) (dismissing Plaintiff's 12 U.S.C. § 2607  
6 claims against Nationstar and Xome, Plaintiff's 12 U.S.C. § 2605(e) claim against Nationstar,  
7 Plaintiff's FDCPA claims, and Plaintiff's negligent misrepresentation claim against Xome).  
8 Plaintiff must file the revised amended complaint within 21 days of the date of this order.

9 DATED this 9th day of July 2020.



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11 John C. Coughenour  
12 UNITED STATES DISTRICT JUDGE  
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25 <sup>1</sup> Although the Court grants Plaintiff leave to amend his complaint to add McCarthy & Holthus  
26 L.L.P. ("M&H") as a defendant, the Court makes no finding as to whether Plaintiff's claims  
against M&H are meritorious. Once M&H has been served, M&H is free to seek dismissal of  
any or all of the claims against it.